

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

Constellation NewEnergy, Inc.)
)
 Plaintiff,)
)
 v.) No. 13 C 2241
)
4220 Kildare, LLC.,)
)
 Defendant.)

MEMORANDUM ORDER

4220 Kildare, LLC. ("4220 Kildare") has filed its Amended Answer and Affirmative Defenses to the Complaint brought against it by Constellation NewEnergy, Inc. Because other (and more substantive) matters have been occupying this Court's time fully since that filing, this memorandum order is being issued belatedly to require correction of one aspect of that Amended Answer.

Because Fed.R.Civ.P. ("Rule") 8(b)(5) allows a defendant to avoid its Rule 8(b)(1)(B) mandate to answer certain allegations in a plaintiff's complaint, defendants must be particularly meticulous in adhering to the requirements of Rule 8(b)(5) -- see App'x ¶ 1 to State Farm Mut. Auto. Ins. Co. v. Riley, 199 F.R.D. 276, 278 (N.D. Ill. 2001). And it is obviously a good deal more demanding for a defendant to satisfy the required absence of enough information to form a belief than merely to assert the lack of knowledge sufficient to form a belief.

Accordingly the disclaimers in Answer ¶¶ 3, 4, 14, 19, 26,

27, 31 and 34 are stricken, with leave granted to replace them with proper disclaimers if 4220 Kildare actually lacks enough information to form a belief as to the truth of the corresponding Complaint allegations. If that is not true in any respect, 4220 Kildare must answer such an allegation rather than disclaim the need to answer the allegation in question. That amendment to the Amended Answer must be filed on or August 23, 2013, failing which all of the corresponding Complaint allegations will be deemed to have been admitted.¹



Milton I. Shadur
United States District Judge

Dated: August 12, 2013

¹As a matter of form, this Court would much appreciate it if 4220 Kildare's future filings are printed on one side rather than on both sides of a page, as the current submission has been. Although this Court is as conservation-minded as anyone, the manner in which it maintains its hard copy chambers files makes a resort to two-sided documents awkward.